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SC: Except for Titled Portions, State Owns Boracay

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Boracay is owned by the State except for the lot areas with existing titles. Thus ruled by the Supreme Court as it resolved the consolidated petitions involving the ownership of the world-famous tourist spot renowned for its powdery beaches and stellar resorts.

In a 35-page unanimous decision penned by Justice Ruben T. Reyes, the Court, granting the petition in GR No. 167707, reversed and set aside the decision of the Court of Appeals (CA). The Court also dismissed for lack of merit the petition in GR No. 173775. GR No. 167707 is a petition questioning the CA decision that affirmed that of the Kalibo, Aklan Regional Trial Court granting the petition for declaratory relief filed by respondents-claimants Mayor Jose Yap, *et al.* and ordering the survey of Boracay for titling purposes. On the other hand, GR No. 173775 is a petition for prohibition, mandamus, and nullification of Proclamation No. 1064 issued by President Gloria Macapagal-Arroyo in 2006 classifying Boracay into reserved forest and agricultural land.

“The continued possession and considerable investment of private claimants do not automatically give them a vested right in Boracay. Nor do these give them a right to apply for a title to the land they are presently occupying. This Court is constitutionally bound to decide cases based on the evidence presented and the laws applicable. As the law and jurisprudence stand, private claimants are ineligible to apply for a judicial confirmation of title over their occupied portions in Boracay even with their continued possession and considerable investment in the land.”

The Court, however, said that while private claimants are ineligible for ownership, such does not mean their automatic ouster from the residential, commercial, and other areas they possess now classified as agricultural. Neither will this mean the loss of their substantial investments on their occupied alienable lands. Lack of title does not necessarily mean lack of right to possess, it ruled.

The Court explained that those with lawful possession may claim good faith as builders of improvements and may look into other modes of applying for original registration of title, such as by homestead or sales patent, subject to the conditions imposed by law. “More realistically, Congress may enact a law to entitle private claimants to acquire title to their occupied lots or to exempt them from certain requirements under the present land laws,” the Court said.

The Court noted that the Regalian Doctrine states that all lands of the public domain belong to the State, making the State the source of any asserted right to ownership and charged with the conservation of such patrimony. Our present land law traces its roots to the Regalian Doctrine.

The Court also upheld the validity of Proc. 1064. It stressed that it was Proc. 1064 which positively declared part of Boracay as alienable and opened the same to private ownership. It further stressed that President Macapagal-Arroyo, in issuing such, merely exercised the authority granted to her to classify lands of the public domain, presumably subject to existing vested rights.

Proc. 1064 classified Boracay into 400 hectares of reserved forest land and 628.96 hectares of agricultural land. The same also provides for a 15-meter buffer zone on each side of the center

line of roads and trails, which are reserved for right of way and which shall form part of the area reserved for forest land protection purposes. The Court also held that Proc. 1064 does not violate the Comprehensive Agrarian Reform Law.

Except for lands already covered by existing titles, the Court said that Boracay was unclassified land of the public domain prior to Proc 1064. Such unclassified lands are considered public forest under PD No. 705.

The Court noted that the classification of Boracay as forest land under PD 705 may seem to be out of touch with the present realities in the island, considering that it has been partly stripped of its forest cover to pave the way for commercial developments. It, however, explained that forests do not necessarily refer to large tracts of wooded land or expanses covered by dense growths of trees and underbrushes.

The assailed RTC decision also held that Proc. No. 1801 and PTA Circular 3-82 pose no legal obstacle to petitioners to acquire title to land in Boracay. Proc. 1801, issued by President Ferdinand E. Marcos in 1978, declared Boracay, among other islands, as tourist zones and marine reserves under the Philippine Tourism Authority, while the PTA Circular was issued to implement Proc. 1801.

The Court held that Proc. 1801 or the PTA Circular did not convert the whole of Boracay into agricultural land. The said issuance covers not only Boracay but 64 other islands, coves, and peninsulas in the Philippines such as Port Galera in Oriental Mindoro, Coron Island, Puerto Princesa in Palawan, and the Camiguin island in Cagayan de Oro, it noted.

That Boracay was classified as a public forest under PD 705 did not bar the Executive from later converting it into agricultural land. Boracay still remained an unclassified land of the public domain despite PD 705, the Court said.

The Court also ruled that private claimants are not entitled to apply for judicial confirmation of imperfect title under CA No. 141 and that neither do they have vested rights over the occupied lands under the said law. The private claimants' bid for judicial confirmation of imperfect title must fail because of the absence of the second element of alienable and disposable land, it said. "Neither may private claimants apply for judicial confirmation of imperfect title under Proclamation No. 1064, with respect to those lands which were classified as agricultural lands. Private claimants failed to prove the first element of open, continuous, exclusive, and notorious possession of their lands in Boracay since June 12, 1945," the Court said. (GR No. 167707, *The Secretary of the Department of Environment and Natural Resources v. Yap*; GR No. 173775, *Sacay v. The Secretary of the Department of Environment and Natural Resources*, October 8, 2008)

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